

GAO

Report to the Chairman, Subcommittee
on Government Information, Justice
and Agriculture, Committee on
Government Operations, House of
Representatives

October 1990

EEO AT JUSTICE

Progress Made But Underrepresentation Remains Widespread





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-240676

October 2, 1990

The Honorable Robert E. Wise, Jr.
Chairman, Subcommittee on Government
Information, Justice and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the affirmative action program at the Department of Justice. As agreed, we determined whether Justice has the data necessary to evaluate the success of its efforts to recruit, hire, and promote minorities and women. Where evaluation data existed, we determined the success of Justice's efforts. In measuring those efforts, we followed the guidance of the Equal Employment Opportunity Commission (EEOC) and compared, for various job categories, the level of minority and female representation at Justice to their levels in the civilian labor force (CLF). Full representation occurs when the two levels are the same. In accordance with your agreement with another congressional committee, the Federal Bureau of Investigation (FBI)—an agency within Justice—was excluded from the review.

Results in Brief

Justice has designated six key jobs as the focus of its equal employment opportunity recruiting, hiring, and promotion efforts—attorney, border patrol agent, correctional officer, criminal investigator, deputy U.S. marshal, and immigration inspector. Recruiting efforts establish pools of applicants for given jobs; hiring efforts refer to selecting and hiring individuals from those pools. Justice had data, such as work force profiles by pay grade, for measuring the success of its efforts to hire and promote minorities and women. However, for five of its six key jobs, Justice had no data on whether its recruiting efforts were providing applicant pools with representative numbers of minorities and women.

Although Justice has acknowledged for several years the need for recruitment data, it is waiting for the EEOC to issue guidance and a form for collecting it. The EEOC, however, said in January 1988 that agencies should develop their own means of collecting the data if they have a need for it.

Justice's work force data showed that representation of minorities and females within its work force has increased over the years. Even so, underrepresentation remains widespread, especially (1) for females

affirmative employment program instructions issued by EEOC, establishing agency-wide objectives, submitting multiyear affirmative employment program plans, and ensuring that all SES managers are held accountable for achieving affirmative action objectives and requirements.

Management Directive 714 requires agencies to comprehensively analyze affirmative employment program elements for status of current conditions. The analyses are to address such elements as work force composition, recruitment, hiring, promotions, and separations. EEOC evaluates the effectiveness of an agency's affirmative employment program efforts by reviewing changes in the agency's work force. To do this, it requires that agencies submit work force profiles of EEO groups by occupational category, key agency job series, and grade/pay level.

These profiles are to cover 11 EEO groups and 5 broad occupational categories. The EEO groups delineated by EEOC are black male and female, Hispanic male and female, Asian American/Pacific Islander male and female, American Indian/Alaskan Native male and female, white male and female, and total female. For brevity, we identify Asian Americans/Pacific Islanders as Asian and American Indian/Alaskan Native as American Indian. This report provides information about 10 rather than 11 EEO groups; it excludes the white male category. We did this for ease of presentation and in keeping with the Subcommittee's emphasis on the hiring and advancement of minorities and women. The occupational categories are professional, administrative, technical, clerical, and other (PATCO). Appendix III shows percentage indexes of EEO groups in PATCO categories for all of Justice. Appendix IV gives the percentage indexes for specific bureaus within Justice. Appendix V shows representation of EEO groups in Justice's key jobs.

Under Management Directive 714, agencies decide which jobs are key. Justice has named the following six jobs as key jobs: attorney, border patrol agent, correctional officer, criminal investigator, deputy U.S. marshal, and immigration inspector.

Approach

We used EEOC standards and evaluation techniques to determine whether underrepresentation existed for various EEO groups. Underrepresentation exists, according to EEOC standards, if the percentage rate at which an EEO group is represented in an agency's work force is less than the rate at which the group is represented in the CLF as identified

spoken of “manifest imbalance” and “conspicuous absence.”¹ According to Management Directive 714, manifest imbalance refers to situations where an EEO group is “substantially below its representation in the appropriate CLF.” Conspicuous absence refers to situations where an EEO group is “nearly or totally nonexistent from a particular occupation or grade level in the work force.” Because numerical criteria for “substantially” and “nearly or totally nonexistent” are not established, we used the previous term (severe) and definition (50 percent or less).

Our work was done from April 1989 to August 1990, in accordance with generally accepted government auditing standards. As requested, we did not obtain official agency comments on this report. We did, however, informally discuss the results of our review with officials of Justice and the EEOC. Additional details about our scope and methodology are presented in appendix I.

Data Available on Hiring and Promoting But Not Recruiting

Justice had data on its efforts to hire and promote minorities and females, but with the exception of its attorney honor program, the agency did not have data on recruitment. Justice’s data show such information as race, ethnic origin, and gender of the individuals hired but not of all individuals who apply for jobs. Although Justice recognized at least as far back as 1983 that it needed recruitment data, it has not aggressively tried to collect these data. For example, Justice said in January 1990 that it was waiting for guidance and a collection “tool” from EEOC. However, in instructions issued in January 1988, the EEOC said that until it develops and obtains clearance for a data collection form, agencies, as they determine the need for such data, should devise and implement their own means of collecting recruitment data. The EEOC recently developed a draft data collection form. Before the form can be given to agencies for their use, it must be approved within EEOC and then by the Office of Management and Budget (OMB). When these approvals will be obtained is unknown.

¹According to the EEOC, the change was made because Management Directive 714 “seeks to build upon the progress most agencies made during the previous six years. The previous period concentrated on a rigid hiring approach. The major thrust for [Management Directive 714] and the next logical step after hiring members of the protected classes is elimination of practices, procedures, and policies which operate to hamper internal movement of the protected classes. The new terms track recent Supreme Court rulings and provide an up-to-date approach to a rapidly changing work force.”

dropped between 1982 and 1988. There were nine fewer PATCO categories (30 percent) showing underrepresentation in 1988. Using occupation-specific CLF data for attorneys and PATCO CLF data for the other key jobs there were seven fewer key job categories showing underrepresentation.

Even with the progress Justice made, widespread underrepresentation remains, especially in key jobs and for females of all ethnic groups. As of December 1988, underrepresentation existed in 21 of the 50 PATCO categories and 33 of the 60 key job categories when using occupation-specific CLF data for attorneys. For some categories, representation was in the 90-percent range and thus close to full. However, for 18 of the key job categories and three of the PATCO categories, underrepresentation was severe. That is, the EEO group's representation at Justice was no greater than 50 percent of its representation in the CLF. Similar comparisons using the broader professional CLF data showed underrepresentation in 39 of the 60 key job categories. Underrepresentation was severe for 24 of these 39.

All key jobs except attorney, using occupation-specific CLF data for attorneys, and immigration inspector had at least one category of severe underrepresentation. Comparing Justice's attorney work force with the broader professional CLF data showed 6 of the 10 categories with severe underrepresentation. Of the other five key jobs, those with the most categories of severe underrepresentation were border patrol agent (7 out of 10 EEO categories) and criminal investigator (5 out of 10 EEO categories). The EEO groups most frequently experiencing severe underrepresentation were Asian females (four out of six key jobs) and American Indian females and black females (both three out of six key jobs).

Using occupation-specific CLF data for attorneys, we estimate that as of December 1988 Justice would have needed at least an additional 28 Asian females, 12 American Indian females, and 198 black females in the key jobs where they were severely underrepresented to enable those groups to reach full representation overall. Using the broader professional CLF data Justice would need at least an additional 74 Asian females, 17 American Indian females, and 279 black females.

Low Representation at Upper Grade Levels

For pay grades across all jobs at Justice, all EEO groups except white and American Indian females had achieved full representation as of December 1988 at grades 1 through 12 combined. However, females across all race and ethnic groups had not achieved full representation in

goals do not require or mandate selection of unqualified persons or preferential treatment of EEO groups but are another tool management can use in working toward full representation of all segments of the CLF.

Specific accountability at Justice for EEO matters appears to be lacking. We reviewed the EEO section from the work plans that Justice provided of six of its SES members and found that the vague manner in which they were all written blunted accountability. For example, one work plan was no more definitive than saying the incumbent should demonstrate "an awareness of and sensitivity to EEO principles and concepts" when recruiting, hiring, and promoting individuals. Management Directive 714 requires all managers under the SES to be held accountable for achievement of their respective agency's affirmative employment objectives.

The EEOC requires agencies, in their affirmative employment plans, to list the specific actions needed to accomplish the plans' objectives and name the officials responsible for carrying out those actions. We believe that Justice should add those actions to the performance work plans of the responsible executives to increase their accountability. Such plans contain the performance objectives and standards that executives will be rated on for a given period of time. Appropriate executives, in our view, would include (1) those who head Justice's bureaus, offices, and divisions and (2) other executives who are responsible for recruiting, hiring, and promoting individuals.

Justice Should Systematically Use Long-Term Data and Trend Analysis

When we analyzed data that covered several years, conditions sometimes became apparent that were not apparent when one year was compared to the next. For example, when using occupation-specific CLF data for attorneys the level of representation for black male attorneys was 125 percent of the CLF in 1987 and 123 percent in 1988. But the level was 221 percent in 1982. The downward trend of Justice's black male attorney work force remains when using the broader professional CLF data as a base; however, the percentages become 99, 97, and 175, respectively.

Our analysis of Justice's attorney honor program during a 5-year period (1984-1988) showed that black applicants received offers from Justice at a lower rate than white applicants (about 60 percent as often). These circumstances do not prove that barriers exist in these areas, but do suggest that additional analysis by Justice for barriers needs to be done. Although Justice has prepared some long-term trend data for specific

Recommendations to the Attorney General

We recommend that the Attorney General strengthen management of Justice's affirmative action program by

- expanding data collection and analysis efforts to include recruitment data and the systematic use of long-term trend data and analysis;
- adding numerical goals to its affirmative employment plan where warranted by the level of underrepresentation, such as severe underrepresentation; and
- increasing the EEO accountability of appropriate SES members by including in their performance work plans the responsibility for setting ambitious goals and taking the vigorous actions needed to achieve affirmative employment plan goals—both numerical and narrative.

Agency Views

The Director of EEOC's Federal Sector Programs agreed with our findings and conclusions. He also agreed that Justice could strengthen the management of its affirmative action program by (1) collecting and analyzing recruitment data, (2) systematically using long-term trend data and analysis, (3) using numerical goals in its affirmative employment plan, and (4) assigning accountability to appropriate SES members for taking the actions needed to achieve the goals.

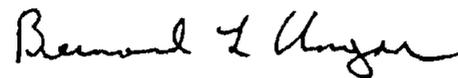
Justice officials generally agreed with our findings and conclusions; however, they differed from our views on several issues. Justice officials agreed that agency recruitment data were needed; however, they placed full responsibility on EEOC for developing a governmentwide form for capturing these data. The EEOC did not deny accountability, but until its effort is fully approved and implemented, it has asked agencies to develop and use their own means of collecting recruitment data.

Justice officials provided documentation to show that they sometimes prepared long-term data and trend analyses to monitor and evaluate their affirmative employment program. However, they agreed that the long-term data and trend analyses were done on an ad hoc basis, and that it would be helpful to make more comprehensive and systematic use of these techniques.

When we discussed the results of our underrepresentation analysis with Justice officials, they said they used American Bar Association data for attorneys, rather than the broader professional civilian labor force data used by EEOC. They said that comparing attorney-specific data shows a much more favorable EEO picture of their attorney work force. However, Justice's plans and reports submitted to EEOC contained no such data.

Appendix II contains detailed information on the results of our review. Major contributors to this report are listed in appendix VI. If you have any questions about this report, please call me at 275-5074.

Sincerely yours,



Bernard L. Ungar
Director, Federal Human Resource
Management Issues

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We did not verify the accuracy of the data Justice provided. However, we did obtain similar data from the EEOC that corroborated Justice's data. We did not verify the accuracy of EEOC's data. The source of the EEOC data was the Office of Personnel Management's (OPM) Central Personnel Data File, which covers most federal employees.¹

We used EEOC's standards and evaluation techniques to determine whether minorities and females were fully represented at Justice. The EEOC uses these standards and techniques to evaluate the EEO efforts of all federal agencies. According to EEOC directives, a group is underrepresented if the percentage at which an EEO group is represented in an agency's work force is less than the rate at which the group is represented in the national CLF. The CLF represents persons 16 years of age or over, excluding those in the armed forces, who are employed or seeking employment.

To gauge representation, the EEOC grouped (1) the federal government's 420 white-collar jobs into the five PATCO categories and (2) each CLF occupation into the same PATCO category as its federal counterpart, with some exceptions. EEOC uses the PATCO-grouped CLF data as the base against which it compares work force data that agencies align by PATCO category and key job. It also instructs agencies to do the same; that is, use the PATCO-group CLF data as the base of comparison.

However, there can be alternatives to using this base. For example, if the broader professional CLF data category yields "a seriously-distorted availability figure for a particular professional occupational series," the EEOC, according to the federal program manager, permits agencies to use, where available, occupation-specific CLF data. CLF data must be used unless approval for other data is obtained from EEOC. "Attorney" is one of the occupations that goes into making up the broader professional category, and CLF data for attorneys are available. It is the only key job at Justice that falls into the exception category.

In analyzing the EEO profile of the attorney work force at Justice, we used as our base of comparison both the occupation-specific CLF data for attorneys and the broader professional CLF data. For reporting purposes, we show both sets of data.

¹The Central Personnel Data File is based on and updated monthly with personnel action information submitted directly to OPM by federal agency appointing offices. The file includes information on individual identification such as Social Security number and date of birth; employee characteristics such as gender and minority status; and job characteristics such as pay plan grade, salary, occupational series, and supervisory status.

Availability of Data and Status of Minority and Female Representation at Justice

Data Available on Hiring and Promoting but Not Recruiting

The EEOC requires agencies to answer a series of questions about their recruitment, hiring, and promotional efforts when preparing their affirmative employment plans. In order to answer these questions accurately and completely, agencies must have pertinent data available. The EEOC also requires agencies to provide work force profiles of EEO groups by occupational category, key agency job series, and grade/pay level.

Justice was able to provide all but recruitment data to us. With the exception of recruitment data for its attorney honor program, the agency did not have detailed recruitment data to provide. In January 1990, Justice said it was waiting for a forthcoming directive from EEOC to provide guidance and a form for collecting "applicant flow" data. Applicant flow data include information on the numbers of applicants who applied for given positions; their race, ethnic origin, and gender; and the sources of those applicants (names of specific universities and colleges, for example). Applicant data enable agencies to determine the extent to which minorities and women are applying for jobs and, where underrepresentation exists, whether their recruiting efforts are a cause for the underrepresentation.

The lack of recruitment data is not a recent situation at Justice. In an affirmative employment plan submitted to EEOC in 1983, Justice acknowledged the need for collecting data that could identify to what extent minorities and women applied for Justice jobs. Justice did not follow up this acknowledgement with a system to collect data, even though EEOC required all agencies at that time to collect data on race, ethnic origin, and gender of job applicants.

From January 1981 to December 1983, both EEOC and OPM required agencies to use an OPM form specifically designed to collect data on race, ethnic origin, and gender of job applicants. In December 1983, however, OPM's authorization to use the form expired, and OPM decided not to request reauthorization from OMB because (1) no law or regulation required OPM to collect the data, (2) the data collected were not statistically reliable, and (3) collecting and processing the data was expensive. OPM has not replaced the form.

Although the form was discontinued, the requirement to collect data remained. The EEOC continued to require agencies to collect data on race, ethnic origin, and gender of job applicants until December 1987. Management Directive 714 did not renew the requirement. However, in a January 1988 supplement to Management Directive 714, the EEOC said that until it is successful in obtaining clearance for a data collection

most other cabinet-level agencies,¹ all of which have widespread operations and followed the same EEOC guidance as Justice, submitted their plans to the EEOC sooner than Justice. All but one submitted their plans 3 to 16 months earlier than Justice; one cabinet agency submitted its plan after Justice did.

In addition to being late, both plans were incomplete. The first plan did not contain (1) the data analysis required by EEOC to identify areas of underrepresentation or (2) the goal-setting required by Management Directive 707 to address those areas of underrepresentation. The second plan did not contain the EEOC-required comparison data Justice was to have used to analyze the representation of minorities and females within its six key jobs.

Justice was instructed to use the appropriate PATCO CLF data or more specific occupational CLF data to compare with each of its six key jobs. Justice instead only showed each minority group as a percentage of the total in each occupation without making CLF comparisons

Justice Should Systematically Use Long-Term Trend Analysis

While not a specific requirement of Management Directive 714, long-term trend data and analyses are recommended to agencies by the EEOC for monitoring and evaluating their EEO programs. Justice officials provided documentation to show that they sometimes use long-term trend data and analyses for these purposes. For example, they have used these techniques to monitor the EEO profiles of their attorney employee population, as well as the EEO profiles of the participants in Justice's attorney honor program, which is the primary source of Justice's new hires in the attorney occupational category. However, our analysis of the documentation provided indicated that Justice prepared these kinds of long-term trend data reports irregularly. Use of this monitoring and evaluation technique on a more comprehensive and systematic basis could assist Justice officials in forecasting and pinpointing potential problem areas.

As part of our review, we found that conditions existed that, if examined by current and past year comparisons, showed little or no apparent cause for concern. But when examined over a multiple-year period, trends were revealed that indicated problems needing attention.

¹There were 13 cabinet-level agencies in April 1988. In addition to Justice, they were the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Labor, State, Transportation, and Treasury.

Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice

The Attorney General's Honor Program is Justice's only recruitment program targeting graduating law students and new attorneys. The agency hires other attorneys through its Experienced Attorney Program. Applicants for the honor program positions must be (1) third-year law students, (2) graduate law students in the autumn of the last year of graduate law study, or (3) judicial law clerks. Selection considerations include many factors, such as academic achievement, law courses taken, law review contributions, extracurricular activities, and summer and part-time employment. Because of the lengthy and extensive training given to new legal employees, most of Justice's organizations participating in the honor program require a 3-year commitment for selectees to remain with the organization.

Justice officials gave us a long-term data report showing numbers and relative percentages, by race, of its attorney honor program applicants, job offer recipients, and hires, from fiscal year 1984 through fiscal year 1988. The report did not have gender data.

Our analysis of the data provided for this 5-year period showed that 731 applications, or 7 percent of the total, were from blacks. Sixty-one (8 percent) of the black applicants received offers, and 39 (64 percent) of those offered jobs accepted them. During the same period, 8,509 applications, or 82 percent of the total received, were from whites; 1,131 (13 percent) of the white applicants received job offers; and 600 (53 percent) of the white applicants accepted the offers. Therefore, during this 5-year period, blacks who received offers accepted them at a higher rate than whites, but black applicants received offers at a lower rate than white applicants.

Analyzing these data suggests that a careful examination needs to be made of Justice's assessment process of its attorney honor program applicants. In its current affirmative employment plan, Justice states that it plans to track minority applicants through its honor program recruitment process.

Justice officials agreed that although they have used long-term trend data and analysis to monitor and evaluate their program, more comprehensive and systematic use of these techniques would be helpful and would be considered

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
0	0	0	0	0	0	0	0	0	0	0	0
0	0	X	X	X	X	0	X	0	0	0	0
X	X	X	X	X	X	0	X	0	X	X	X
0	0	X	X	X	X	0	X	0	X	X	X
0	0	X	X	0	X	0	X	0	0	0	0

Note X Represents full or overrepresentation in category
0 Represents underrepresentation

Bureaus Within Justice

EEOC Management Directive 714 requires a separate analysis for each installation with 2,000 or more employees. We did such an analysis for seven of Justice's nine operating bureaus.² We did not analyze the FBI and, because it had fewer than 2,000 employees, the Office of Justice Programs.

EEOC guidance does not require underrepresentation determinations for occupational categories with fewer than 100 employees. There were 35 possible PATCO categories to analyze (5 PATCO categories x 7 bureaus), and we dropped 7 from our analysis because each had fewer than 100 employees. Those dropped were in four bureaus. In total, we analyzed 280 of the 350 possible categories [(5 PATCO categories x 10 EEO groups) x 7 bureaus].

Among the seven bureaus, representation of minorities and females in the PATCO categories generally increased. For example, in comparison to 1982, all had fewer categories with underrepresentation in 1988. Altogether, there were 31 fewer categories with underrepresentation, a decrease of about 18 percent. Even with this progress, however, underrepresentation was common. In three bureaus, underrepresentation existed in 42 to 48 percent of the categories in 1988. In four bureaus, underrepresentation existed in 53 to 65 percent of the categories. The Federal Prison System had the largest percentage of underrepresented categories—65 percent.

²We analyzed the Bureau of Prisons, Drug Enforcement Administration, Executive Office for U.S. Attorneys, Federal Prison System, Immigration and Naturalization Service, and the U.S. Marshals Service. Justice combines offices, boards, and divisions to make the seventh "bureau." For EEO reporting purposes, Justice separates the Bureau of Prisons from the Federal Prison System.

Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice

Table II.2: Justice's Rank Among the 13 Cabinet Agencies in the EEO Profile of Its Professional and Administrative Work Force (As of December 1988)

EEO group	Professional	Administrative
Total female	5 ^a	12 ^a
White female	2 ^a	12 ^a
Black male	8	5
Black female	7 ^a	10
Hispanic male	9 ^a	1
Hispanic female	7 ^a	2
Asian male	13 ^a	3
Asian female	13 ^a	6
American Indian male	12 ^a	8
American Indian female	9 ^a	12 ^a

^aFor this category, representation at Justice was below the CLF

Key Jobs

EEOC requires agencies to submit, for its evaluation, work force profiles for key jobs. As stated earlier, Justice has identified six key jobs. According to Justice's affirmative employment plans, these six jobs account for approximately one-half of Justice's labor force and are the focus of Justice's EEO recruiting, hiring, and promotion efforts. We analyzed work force profiles to determine if minorities and women were fully represented in the key jobs and to estimate the numbers of minorities and females needed to reach full representation. We also reviewed Justice's 1988 hiring efforts for the six jobs.

Extent of Underrepresentation in Key Positions

Underrepresentation was greater in key jobs in 1988 than in the broader PATCO categories. That is not to say Justice made no progress in moving towards full representation. Of the 60 categories (10 EEO groups x 6 key jobs), representation increased in 46, or about 77 percent, of the categories. In comparison to 1982 and using occupation-specific CLF data for attorneys, the number of categories with underrepresentation decreased by 7, or 18 percent. However, as table II.3 shows, 33 categories (55 percent) still had less than full representation. While several of the 33 categories had near full representation, 18 had representation that was 50 percent or less of the corresponding CLF level. Put another way, about 30 percent of the 60 categories were severely underrepresented.

Using the broader professional CLF data, we found that there were eight fewer underrepresented key job categories in 1988 than in 1982, and a total of 39 categories (65 percent) with less than full representation. Underrepresentation was severe for 24 of these 39 categories.

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
X	X	X	X	X	X	X	X	X	0	X	X
0	X	0	0	0	0	0	0	0	0	0	0
0	0	0	0	X	X	0	0	0	0	0	0
0	0	X	X	0	X	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0
0	X	0	0	0	X	0	0	0	0	0	0
0	0	X	X	X	X	0	X	0	0	0	X

Note: X Represents full or overrepresentation
0 Represents underrepresentation

All key jobs except attorney, using occupation-specific CLF data for attorneys, and immigration inspector had at least one EEO category of severe underrepresentation. Comparing Justice's attorney work force with the broader professional CLF data showed 6 of the 10 categories with severe underrepresentation. Of the other five key jobs, those with the most categories of severe underrepresentation were border patrol agent (seven out of the 10 EEO categories) and criminal investigator (five out of 10 EEO categories). The EEO groups most frequently experiencing severe underrepresentation were Asian females (four out of six key jobs) and American Indian females and black females (three out of six jobs each). (App V shows representation levels for the 60 categories in 1982 and 1988.)

Numbers of Minorities and Women Needed to Attain Full Representation in Key Positions

We used EEOC and OPM guidance to estimate the additional numbers of minorities and women Justice would need to attain across-the-board representation in the key positions. In many instances, Justice would need only a few more individuals from an EEO group to achieve full representation because that group's representation in the CLF is small. In other instances, the numbers are larger because the group's representation in the CLF is larger. Table II.4 shows, by grade and EEO group, the numbers needed to make up representation shortfalls.

Appendix II
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and Female Representation at Justice

number of black male attorneys actually employed. The differences, where there were shortfalls, appear in table II.4.

To ensure percentages in the categories analyzed were large enough to permit reasonable comparison with the CLF percentages, we combined grades, where feasible, when there were fewer than 100 employees in a grade. OPM instructions say, as a general rule, at least 100 employees should be in any grade or grouping of grades in order to determine if underrepresentation exists.

**1988 Hiring Efforts Below 1988
CLF Percentages for Key
Positions**

Justice hired 4,493 people in calendar year 1988 for its six key jobs. We analyzed Justice's hiring results for the EEO groups that were underrepresented at the start of 1988. For each key job, we determined which EEO groups were underrepresented as of December 1987 and then compared the percentages of minorities and females hired in 1988 to the corresponding percentages of minorities and females in the CLF. We did so to see how representative Justice's hiring results were. More often than not, Justice's hiring results were less than the CLF percentage. As of December 1987, using occupation-specific CLF data for attorneys, representation was less than full in 28 categories; 34 categories if using the broader professional CLF data to analyze Justice's attorney work force.³ As table II.5 shows, Justice hired at or above CLF percentage for only 8 of the underrepresented categories.

³The total number of categories was 54. The "total" female category for each job was excluded. Of the 54 categories, using occupation-specific CLF data for attorneys, full representation existed in 26 categories; underrepresentation existed in 28. Using the broader professional CLF data showed full representation in 20 categories and underrepresentation in the remaining 34 categories.

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Male					
Hired	Asian		Hired	American Indian	
	Justice	CLF		Justice	CLF
2	0.7%	0.54%	0	0.0%	0.15%
2	0.7	2.53	0	0.0	0.21
8	0.5	0.73	5	0.3	0.76
12	0.8	0.73	11	0.8	^a
19	3.6	^a	1	0.2	^a
0	0	^a	0	0.0	0.76
24	6.2	^a	1	0.3	^a

Female								
Hired	Hispanic		Asian			American Indian		
	Justice	CLF	Hired	Justice	CLF	Hired	Justice	CLF
1	0.3%	^a	1	0.3%	^a	0	0.0%	0.04%
1	0.3	1.14%	1	0.3	1.12%	0	0.0	0.13
31	1.9	^a	2	0.1	0.09	0	0.0	0.09
18	1.2	^a	0	0.0	0.09	2	0.1	0.09
10	1.9	1.30	3	0.6	0.51	1	0.2	0.17
0	0.0	^a	0	0.0	0.09	0	0.0	0.09
24	6.2	^a	11	2.8	^a	0	0.0	0.17

^aEEO group representation was at or above full representation as of December 1987

^bUsing occupation-specific CLF data for attorneys

^cUsing broad professional CLF data

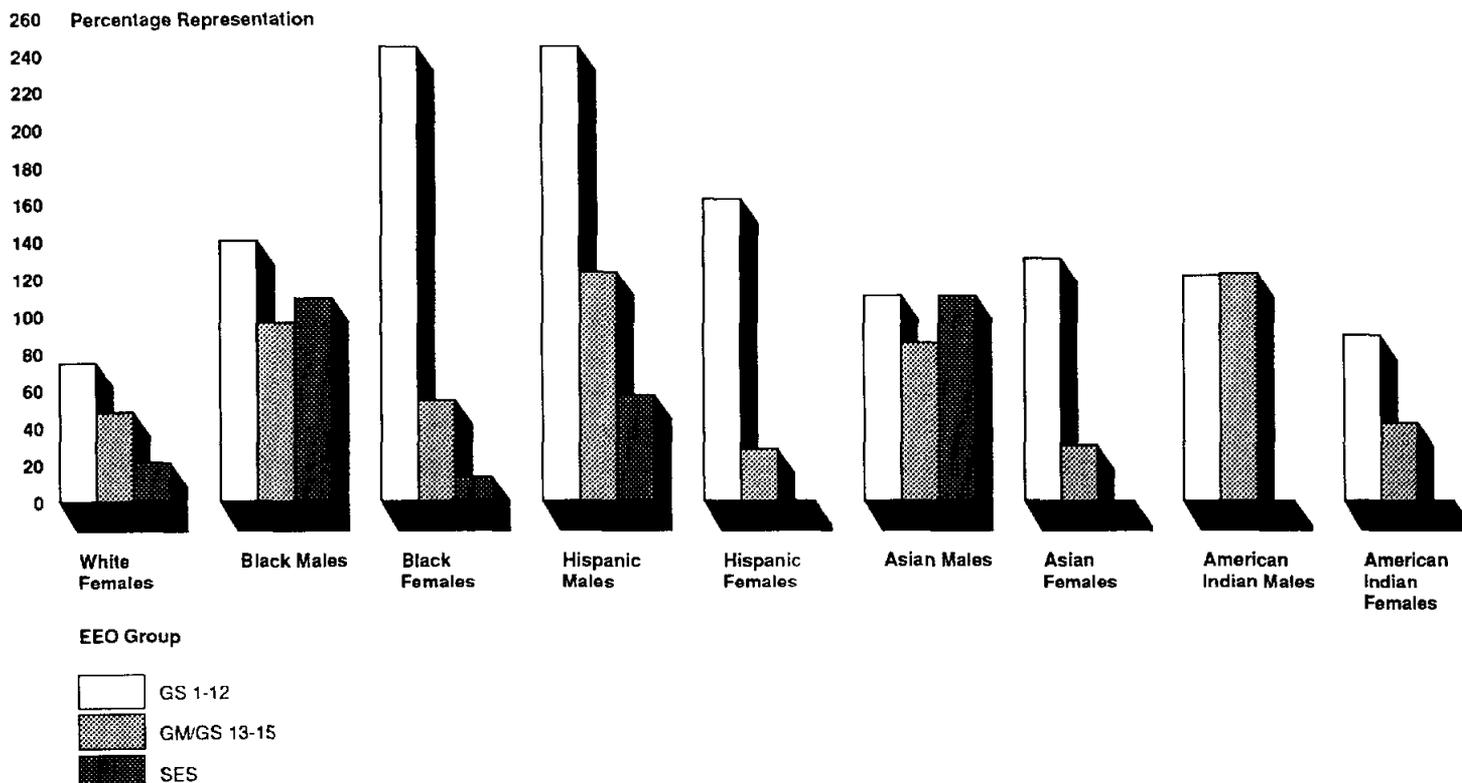
Note: Percentage represents the EEO group's percent of Justice's total hires for that particular job series. CLF represents the EEO group's corresponding PATCO representation in the civilian labor force.

Figures in bold indicate areas where Justice hired at or above CLF levels for EEO groups which were underrepresented as of December 1987.

We do not know why hiring was less than fully representative for most of the underrepresented categories. Justice's affirmative employment plan says the agency does not attract enough qualified women and minorities for its key jobs. However, as reported earlier, Justice generally does not collect the data necessary to know whether many minorities and women are applying for its key jobs and what portion of the

Appendix II
 Availability of Data and Status of Minority
 and Female Representation at Justice

Figure II.2: Representation of Females and Minorities at Justice by Grade Level (As of December 1988)



Note: Percentage representation is the rate at which the applicable EEO group is represented in the occupational category as compared to that group's representation in the national civilian labor force without regard to pay level.

Justice Should Employ Numerical Goals

The EEOC has required two 5-year plans from agencies to date, and has issued guidance for agencies to follow in preparing them. EEOC's instructions issued in 1981 for preparing the first plan required agencies to (1) analyze their work force profiles for underrepresentation and (2) establish numerical goals and timetables for underrepresented EEO groups. The instructions for the second (current) plan, Management Directive 714, require agencies to compare their work force profiles with the CLF but do not require numerical goals and timetables. The directive says agencies may develop reasonable numerical goals to address instances of conspicuous absence or manifest imbalance. EEOC's explanation for changing the use of numerical goals from a requirement to an option is

Specific EEO Accountability Lacking

The Civil Service Reform Act of 1978 specifies that the SES shall be administered so as to ensure that compensation, retention, and tenure are contingent on executive success. Success, the act says, is measured on the basis of individual and organizational performance, including success in meeting EEO goals. EEOC's Management Directive 714 assigns agency heads the responsibility for ensuring that all managers under the SES are held accountable for the achievement of affirmative employment objectives and the fulfillment of EEO requirements and objectives established by the agency.

At Justice, the level of accountability for EEO requirements and objectives is not as specific as it could be. For example, Justice's current affirmative employment plan contains narrative objectives such as "to increase the numbers of women and minorities in the applicant pools for law enforcement positions." The objectives are followed by a list of actions Justice will take to achieve the objectives. According to Management Directive 714, an official responsible for carrying out each action item must be listed in the plan. Justice generally named organizations such as "EEO Staff" and "Justice Management Division."⁶ Thus, the plan, which covers Justice's bureaus, generally does not identify the specific persons or positions that are responsible for achieving the objectives.

We reviewed the performance work plans of six SES positions at Justice, with which Justice provided us as examples of work plans of officials with EEO responsibilities. We found that the plans lack the specificity needed to truly gauge how successful the executives are in carrying out their EEO responsibilities. (Performance work plans contain the performance objectives and standards that an executive will be rated on for a given period of time.)

One of the work plans given us was for the Assistant Attorney General for Administration; this position has been designated by the Attorney General as the Director of EEO who is responsible for enforcing and managing Department EEO policy. As an element (objective) of this position, the work plan says the incumbent "supports the Department's equal employment opportunity (EEO)/human resources programs." The EEO performance standard for "fully successful" in this plan requires the

⁶After reviewing the plan, EEOC informed Justice that action items should be assigned to responsible officials instead of offices, divisions, and bureaus. EEOC eventually approved the plan despite Justice's naming mostly organizations rather than responsible officials.

**Appendix III
 Minority and Female Representation at
 Justice by PATCO Occupation**

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
75	97	91	94	61	64	22	27	28	55	74	93
57	70	141	185	129	197	54	160	43	46	68	88
101	109	294	306	150	204	90	141	68	134	129	142
91	85	274	300	155	229	81	128	97	119	118	122
55	71	139	175	87	183	0	106	23	98	70	95

Note. Figures show Justice white-collar work force as a percentage of the national CLF. This type of percentage index, called an underrepresentation index by EEO and OPM, indicates the extent to which a particular EEO group is represented in a work force as compared to the group's representation in the CLF. The index can range from 0 to 100+, with 100 indicating full representation and lower numbers indicating underrepresentation.

Numbers in bold indicate areas of underrepresentation.

**Appendix IV
Minority and Female Representation Within
Justice Bureaus by PATCO Occupation**

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
62	98	147	238	92	122	9	22	0	189	68	109
38	65	87	149	34	60	15	38	44	29	42	72
78	80	100	143	87	134	27	94	96	6	80	92
108	122	161	211	93	131	45	26	75	110	112	132
68	71	200	233	85	99	0	46	21	92	89	98

Note: Figures show Justice work force as a percentage of the national CLF. This type of percentage index, called an underrepresentation index by EEOC and OPM, indicates to which extent that a particular EEO group is represented in a work force as compared to the group's representation in the CLF. The index can range from 0 to 100+ with 100 indicating full representation and lower numbers indicating underrepresentation.

Numbers in bold indicate areas of underrepresentation.

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
31	67	56	44	46	36	0	110	0	0	33	72
28	44	81	144	53	91	24	50	0	15	34	56
69	95	571	497	119	185	40	129	0	151	139	155
105	77	266	394	219	256	51	94	0	114	130	129

Note: Figures show Justice work force as a percentage of the national CLF. Numbers in bold indicate areas of underrepresentation.

^aDid not examine because category had less than 100 employees either as of December 1982 or December 1988.

**Appendix IV
 Minority and Female Representation Within
 Justice Bureaus by PATCO Occupation**

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
76	96	80	36	53	64	14	15	39	0	73	86
231	242	200	246	57	157	72	228	434	171	219	239
193	197	238	255	156	176	151	209	0	137	195	204
125	122	182	182	122	133	88	95	71	127	131	130

Note: Figures show Justice work force as a percentage of the national CLF. Numbers in bold indicate areas of underrepresentation.

^aDid not examine because category has less than 100 employees either as of December 1982 or December 1988.

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
27	59	81	152	0	17	75	45	0	0	30	66
31	73	50	97	0	0	0	0	0	0	32	71

Note: Figures show Justice work force as a percentage of the national CLF. Numbers in bold indicate areas of underrepresentation.

^aDid not examine because category had less than 100 employees as of December 1982 or December 1988.

Appendix IV
 Minority and Female Representation Within
 Justice Bureaus by PATCO Occupation

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
43	98	63	83	307	247	31	91	0	0	53	101
51	57	116	185	244	385	75	317	45	66	66	88
63	68	219	260	275	368	128	192	0	125	96	112
65	64	296	266	247	343	117	231	129	145	106	110
19	32	15	53	110	307	0	72	0	72	23	51

Note: Figures show Justice work force as a percentage of the national CLF. Numbers in bold indicate areas of underrepresentation

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
90	101	74	53	18	17	31	14	39	60	84	91
130	147	434	448	78	165	100	156	0	36	157	177
125	114	577	610	50	80	50	80	58	187	180	179
89	73	399	460	16	157	38	49	115	62	123	127
140	139	786	970	113	399	0	0	703	496	245	288

Note: Figures show Justice work force as a percentage of the national CLF. Numbers in bold indicate areas of underrepresentation

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
98	38	250	48	0	27	0	0	512	34	110	38
200	200	185	175	176	171	235	91	411	320	198	193
60	234	56	96	58	175	0	311	0	311	58	210

Note: Figures show Justice work force as a percentage of the national CLF. Numbers in bold indicate areas of underrepresentation

^aDid not examine because category had less than 100 employees either as of December 1982 or December 1988.

**Appendix V
 Minority and Female Representation Within
 Justice's Bureau Key Jobs**

Female											
White		Black		Hispanic		Asian		American Indian		Total Female	
1982	1988	1982	1988	1982	1988	1982	1988	1982	1988	1982	1988
174	217	251	141	148	145	142	114	123	98	177	208
80	100	76	42	49	48	24	19	38	30	76	90
16	24	8	10	111	283	0	26	0	26	19	36
57	61	238	266	93	105	0	20	27	79	87	96
9	22	20	32	19	78	14	38	0	19	10	25
60	109	52	22	58	159	0	0	0	0	57	96
61	60	124	216	350	557	70	487	60	61	80	102

Note: Figures show Justice work force as a percentage of the national CLF. This type of percentage index, called an underrepresentation index by EEOC and OPM, indicates the extent to which a particular EEO group is represented in a work force as compared to the group's representation in the CLF. The index can range from 0 to 100+, with 100 indicating full representation and lower numbers indicating underrepresentation. Numbers in bold indicate areas of underrepresentation.

^aUsing occupation-specific CLF data for attorneys.

^bUsing broader professional CLF data

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Minority and Female Representation Within Justice's Bureau Key Jobs

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Attorney ^a	221	123	102	104	73	84	82	52
Attorney ^b	175	97	66	67	16	18	58	37
Border Patrol Agent	11	16	501	685	55	81	23	34
Correctional Officer	217	229	156	152	34	58	98	108
Criminal Investigator	172	210	369	380	67	121	205	236
Deputy US Marshal	178	34	98	86	53	147	77	0
Immigration Inspector	72	92	469	658	76	236	80	97

**Appendix IV
Minority and Female Representation Within
Justice Bureaus by PATCO Occupation**

Table IV.5: Immigration and Naturalization Service

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	60	132	130	130	14	40	0	0
Administrative	86	99	361	548	73	190	64	85
Technical	230	165	667	592	86	136	116	78
Clerical	234	157	332	290	193	148	64	249
Other	19	21	514	679	84	106	22	40

Table IV. 6: Offices, Boards, and Divisions

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	129	83	35	54	14	20	48	37
Administrative	210	170	74	67	38	74	32	38
Technical	239	268	6	14	0	29	0	0
Clerical	263	121	4	40	0	44	0	0
Other	455	273	13	19	260	122	83	59

Table IV. 7: United States Marshal's Service

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional ^a								
Administrative	263	266	63	175	0	43	0	288
Technical	40	63	13	21	29	45	0	0
Clerical ^a								
Other	178	50	97	70	53	115	76	0

**Appendix IV
 Minority and Female Representation Within
 Justice Bureaus by PATCO Occupation**

Table IV.3: Executive Office for U.S. Attorneys

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	240	122	86	74	20	17	72	41
Administrative	122	48	27	32	0	40	0	45
Technical	78	24	0	13	28	0	0	0
Clerical	53	55	17	20	47	34	0	0
Other ^a								

Table IV. 4: Federal Prison System

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional ^a								
Administrative	147	169	83	132	106	84	239	142
Technical ^a								
Clerical ^a								
Other	97	114	141	157	37	64	177	103

Minority and Female Representation Within Justice Bureaus by PATCO Occupation

Table IV.1: Bureau of Prisons

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	288	306	155	141	41	49	299	195
Administrative	279	268	158	137	27	36	208	136
Technical	221	182	180	240	10	138	100	217
Clerical	123	48	72	21	0	39	113	0
Other	192	205	146	143	36	63	95	119

Table IV. 2: Drug Enforcement Administration

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	313	246	169	114	124	130	0	0
Administrative	206	209	297	274	75	105	265	241
Technical	184	182	81	95	0	47	145	0
Clerical	89	100	25	16	0	0	0	171
Other ^a								

Minority and Female Representation at Justice by PATCO Occupation

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	204	148	85	85	25	30	94	61
Administrative	163	170	261	314	61	115	135	143
Technical	197	160	253	239	33	83	70	73
Clerical	170	111	141	123	83	77	36	115
Other	148	129	227	319	54	81	76	82

Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice

incumbent to demonstrate “an awareness of and sensitivity to EEO principles and concepts when recruiting, evaluating, and selecting individuals for vacancies or promotions; affording employees opportunities for training or other developmental assignments; and evaluating employees performance or recognizing employee accomplishments.” In our view, the EEO element of this work plan is vaguely written; the other five work plans are written in a similar manner.

Thus, in our view, Justice executives are not held specifically accountable in either the affirmative employment plan or their performance plans for the EEO program’s successes or failures. This, we believe, can be changed in a practical way. As said earlier, we believe Justice’s affirmative action plan should contain numerical goals for hiring and promoting minorities and females. The plan should also define the actions necessary to attain those goals and the names of officials or positions responsible for carrying out those actions. Those officials should be part of the process that determines what action items go into the affirmative employment plan.

In order to avoid treatment of goals as quotas, we would not include numerical goals in executives’ performance work plans. We would, however, put into the work plans the action items needed to accomplish the goals and hold the responsible executives accountable for carrying out those actions. This accountability would be reflected in the executives’ performance ratings. We recognize that the action items could be satisfactorily implemented without achieving the related goal. Failure to reach the goal need not be a negative reflection on the executive’s performance. However, it may suggest a need to reexamine the appropriateness of the numerical goal and the related action items.

that the change provides agencies with more responsibility and flexibility in doing what they believe is necessary to meet their EEO needs.

No Goals in Justice's Plans

Justice did not include numerical goals in either of its two 5-year affirmative employment plans. The EEOC never approved the first plan because Justice refused to follow EEOC's requirement to do underrepresentation analysis and set numerical goals for underrepresented groups. The EEOC has approved Justice's current affirmative employment plan; it contains comparisons to the CLF.

Justice has a policy that prohibits use of numerical goals for EEO activities because it believes numerical goals are tantamount to quotas. The EEOC does not view goals in this manner. Numerical goals, the EEOC has said, are intended to provide management with a flexible tool to improve efforts to increase representation of targeted EEO groups. According to the EEOC, numerical goals do not require or mandate the selection of unqualified persons or preferential treatment based on race, national origin, or gender; and the goals must be reasonable. That is, they must have a reasonable relation to the extent of underrepresentation, the availability of candidates, and the number of vacancies.

Other federal agencies have employed numerical goals as an aid in moving towards full representation. For example, in response to a recommendation we made in 1989 regarding underrepresentation in the Foreign Service,⁴ the Department of State said it agreed that greater specificity in goal-setting could aid in eliminating underrepresentation, and agreed to take steps to alter its 5-year affirmative employment plan as needed. The U.S. Army Post at Fort Lee, Virginia, included numerical goals in its 1988 to 1992 affirmative employment plan although such goal-setting was not required by the EEOC. These goals included adding a certain number of minorities and white women to specific targeted civilian job series over the 5-year period and a numerical goal to address underrepresentation at higher civilian grades (grades 13 through 15).⁵

⁴State Department: Minorities and Women Are Underrepresented in the Foreign Service (GAO/NSIAD-89-146, June 26, 1989).

⁵We reported on Fort Lee's EEO program for civilian personnel in Equal Employment Opportunity: Representation of Minorities and White Women at Fort Lee Army Post, Virginia (GAO/GGD-90-27, Jan. 17, 1990).

applicants are qualified. Having such information, we believe, would help Justice improve its efforts to bring full EEO representation to all key jobs.

Representation at Upper Grade Levels

The General Schedule (GS) pay system is the primary pay system for civilian employees of the federal government. It has levels or grades; the higher the grade, the greater the responsibility and pay. The GS system includes employees covered by the Performance Management and Recognition System. Employees in the Performance Management and Recognition System are identified by the General Management (GM) pay plan designation and occupy positions in grades 13 to 15. People in these grades are often considered the government's middle managers. The government's career senior executives (upper level managers) are paid through the SES pay system.

As figure II.2 shows, females across all ethnic groups had not achieved full representation in the SES and at grades 13 through 15. Although most had achieved full representation at grades 1 through 12 combined, white and American Indian females had not. The results for minority males were uneven. Black and Asian males were fully represented in the SES; Hispanic and American Indian males were not. Hispanic and American Indian males were fully represented at grades 13-15; black and Asian males were not. All male minority groups were fully represented in grades 1 through 12 combined.

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Table II.5: Number and Percentage of Justice's 1988 New Hires Who Were Minorities and Females Compared to Their Percentages in the CLF (for Key Jobs)

Job series	Total Hired	Male					
		Black			Hispanic		
		Hired	Justice	CLF	Hired	Justice	CLF
Attorney ^b	298	5	1.7%	^a	4	1.3%	^a
Attorney ^c	298	5	1.7	2.33	4	1.3	2.16%
Border Patrol Agent	1619	40	2.5	8.34	488	30.1	^a
Correctional Officer	1448	282	19.5	^a	110	7.6	^a
Criminal Investigator	528	51	9.7	^a	35	6.6	^a
Deputy U.S. Marshal	211	0	0.0	8.34	0	0.0	4.77
Immigration Inspector	389	16	4.1	3.64	95	24.4	^a

Job series	Female					
	White			Black		
	Hired	Justice	CLF	Hired	Justice	CLF
Attorney ^b	89	29.9%	^a	3	1.0%	^a
Attorney ^c	89	29.9%	26.85%	3	1.0	2.79%
Border Patrol Agent	40	2.5	7.71	4	0.2	1.61
Correctional Officer	95	6.6	7.71	75	5.2	^a
Criminal Investigator	47	8.9	26.57	6	1.1	3.13
Deputy U.S. Marshal	17	8.1	^a	0	0.0	1.61
Immigration Inspector	43	11.1	26.57	9	2.3	^a

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Table II.4: Numbers of Minorities and Females Needed to Reach Full Representation, by Pay Grade, in Justice Key Jobs as of December 1988

Job Title ^a	Grade Grouping	Number Needed to Reach Full Representation								
		Male					Female			
		Black	Hispanic	Asian	American Indian	White	Black	Hispanic	Asian	American Indian
Attorney ^b	11-12	4	0	0	0	0	0	0	0	0
	13-15	0	1	1	1	0	0	0	0	0
	13-15(GM) ^c	1	0	0	1	0	0	0	1	0
	SES	1	2	1	0	3	0	1	0	0
	AD ^d	0	0	5	2	0	0	0	1	1
Attorney ^e	11-12	6	1	3	0	0	3	3	3	0
	13-15	6	13	32	2	0	22	12	11	1
	13-15(GM)	3	3	9	1	28	2	0	5	1
	SES	2	4	4	0	27	4	2	2	0
	AD	0	15	56	3	61	50	13	25	3
Criminal Investigator	5-7	0	0	0	0	83	6	0	0	1
	9-12	0	0	0	0	670	70	5	12	5
	13-14	0	0	1	0	245	26	8	4	2
	13-15(GM)	0	0	6	0	279	29	12	5	1
Border Patrol Agent	5-7	97	0	0	8	90	24	0	1	2
	9-12	187	0	4	12	145	34	0	2	1
	13-15(GM)	13	0	1	1	12	3	1	0	0
Immigration Inspector	5-7	0	0	0	0	108	0	0	0	0
	9-12	11	0	0	1	197	0	0	0	2
	13-15(GM)	3	0	1	0	7	0	0	0	0
Deputy U.S. Marshal	5-7	16	5	0	2	0	4	0	0	0
	9-12	13	0	0	2	0	2	0	0	0
Correctional Officer	5-8	0	0	13	6	134	0	0	3	0
	9-12	0	0	4	1	35	0	0	1	1

^aJustice's total work force for each job title as of December 1988 was: attorney—5,083; criminal investigator—6,211; border patrol agent—4,224; immigration inspector—2,900; deputy U.S. marshal—561; and correctional officer—5,629

^bUsing occupation-specific CLF data for attorneys

^cGM refers to persons in the Performance Management and Recognition pay system. See p. 36

^dAD refers to attorneys whose salaries are "administratively determined" by the Attorney General and are not in the GS and GM pay systems

^eUsing broad professional CLF data

For each job, Justice provided the number of minority and female employees at each grade level as of December 1988. We then compared these numbers to our estimates of the numbers needed for full representation. For example, since black males make up 1.8 percent of the attorney category in CLF data, we applied that percentage to the total number of attorneys employed at each grade level. The resulting number was the estimated number of black male attorneys needed for full representation. We then compared the fully representative number with the

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Table II.3: Representation of Justice's Work Force by Justice's Key Jobs

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Attorney ^a	X	X	X	X	0	0	0	0
Attorney ^b	X	0	0	0	0	0	0	0
Border Patrol Agent	0	0	X	X	0	0	0	0
Correctional Officer	X	X	X	X	0	0	0	X
Criminal Investigator	X	X	X	X	0	X	X	X
Deputy U S Marshal	X	0	0	0	0	X	0	0
Immigration Inspector	0	0	X	X	0	X	0	0

^aUsing occupation-specific CLF data for attorneys

^bUsing broader professional CLF data

Where there was underrepresentation, it was often severe. All of the bureaus had categories where representation was 50 percent or less. Usually, this representation level existed in anywhere from about one-half to three-fourths of the underrepresented categories in each bureau. The Immigration and Naturalization Service was outside this one-half-to-three-fourths range. Of categories with underrepresentation, about 29 percent of those in the Immigration Service had representation levels of 50 percent or less. (App. IV contains the PATCO table for each bureau.)

Severe underrepresentation existed in 76, or about 27 percent, of the 280 EEO categories across all seven bureaus as of December 1988. Overall, slightly more than one-half (51 percent) of the 280 categories had some degree of underrepresentation.

Justice in Comparison to Other Agencies

We compared Justice's EEO profile for two PATCO categories—professional and administrative—with like profiles from the 12 other agencies that had cabinet-level status in December 1988, the date of the data we used. (The 12 are the same as those listed in footnote 1.) We made the comparison to determine where Justice's minority and female representation stands in comparison to the other cabinet agencies for the two occupational categories. We used the professional and administrative categories because, of all PATCO categories, they experienced the most significant growth over the 1982 to 1988 period in the number of employees governmentwide. To make our comparison, we determined representation levels at each agency in relation to the CLF and ranked the agencies on the basis of those levels.

As table II.2 shows, Justice frequently compares favorably with the other 12 agencies on representation levels in the administrative category. However, it compares far less favorably on representation in the professional category. Like Justice, all of the other 12 agencies had EEO groups that were underrepresented in the professional and administrative categories. On average, the 12 agencies had 5.4 groups in the professional category with underrepresentation and 3.3 groups in the administrative category. In comparison, Justice had nine underrepresented EEO groups in the professional category and three in the administrative category.

**Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice**

Table II.1: Representation of Justice's Work Force by PATCO Occupational Categories (1982 and 1988)

Category	Male							
	Black		Hispanic		Asian		American Indian	
	1982	1988	1982	1988	1982	1988	1982	1988
Professional	X	X	0	0	0	0	0	0
Administrative	X	X	X	X	0	X	X	X
Technical	X	X	X	X	0	0	0	0
Clerical	X	X	X	X	0	0	0	X
Other	X	X	X	X	0	0	0	0

Progress Made but Widespread Underrepresentation Remains

As a means of evaluating agencies' progress in their affirmative employment efforts, EEOC examines work force data to see if there is positive change in the participation of EEO groups. One set of data it examines represents an agency's work force in the PATCO white-collar occupational categories; another represents an agency's work force by its key jobs. We made various comparisons using PATCO and key job data to determine where minority and female representation stands at Justice. Between the two approaches, PATCO provides a broader view. On the other hand, key jobs, by their very classification as key, provide more precise insight about representation at Justice.

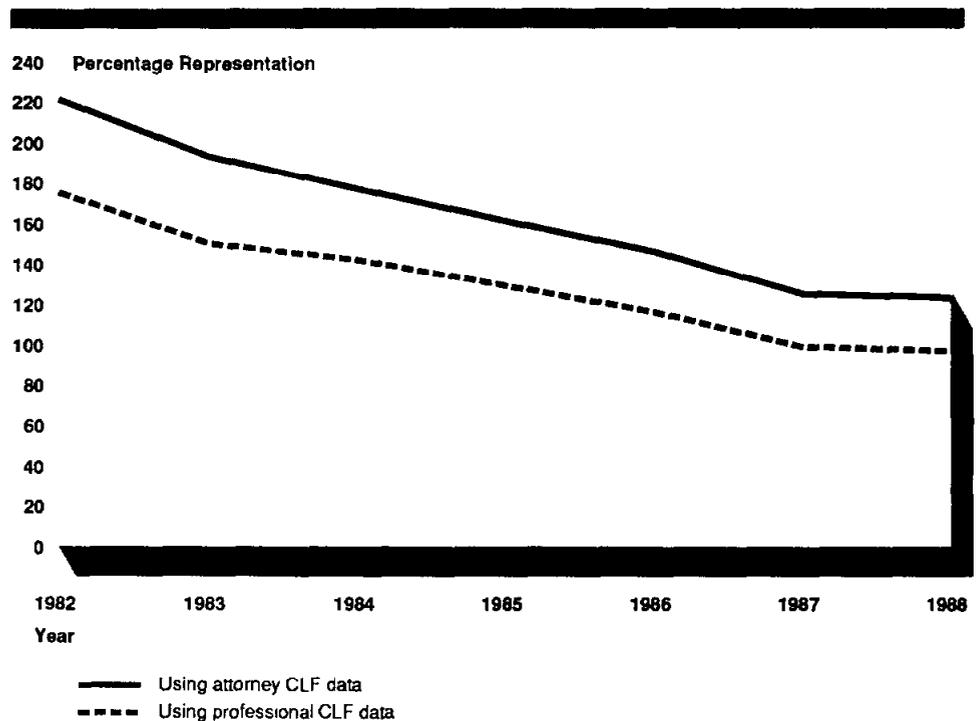
PATCO Representation

Of Justice's 50 PATCO categories (10 EEO groups x 5 PATCO categories), minority and female representation increased in 40 categories between 1982 and 1988. These increases pushed representation up enough that the number of categories with underrepresentation dropped from 30 in 1982 to 21 in 1988, as table II.1 shows. Moreover, of this 21, representation was from 90 to 98 percent in 5 categories. However, even though Justice has made progress, the 21 underrepresented categories means that 42 percent of the PATCO categories at Justice still do not reflect the relative minority and female makeup of the CLF. (App. III shows representation levels for the 50 categories in 1982 and 1988.)

Appendix II
Availability of Data and Status of Minority
and Female Representation at Justice

For example using occupation-specific CLF data for attorneys, the level of representation of black male attorneys at Justice declined slightly between 1987 and 1988, going from 125 percent of the CLF to 123 percent. But when analyzing their employment from 1982 through 1988, a different picture emerges. As figure II.1 shows, a steep decline occurred from 1982, when the number of black male attorneys represented about 221 percent of the CLF, to 1987 and 1988, when they were just above half of their 1982 representation level. The downward trend of Justice's black male attorney work force remains when using the broader professional CLF data as a base, however the percentages become 99, 97, and 175, respectively. Justice officials did not know why black male attorneys were leaving the agency but acknowledged it was a problem they needed to address. This example, we believe, demonstrates that long-term trend analyses are needed to provide a more complete picture of program results.

Figure II.1: Trend Line Showing Representation of Black Males in Justice Attorney Occupations (1982-1988)



Percentage representation is the rate that black males are represented in Justice's attorney work force as compared to that group's representation in the corresponding national CLF occupational category without regard to pay level

form, agencies are to develop and implement their own means of collecting applicant data as they see the need for such data. Since issuing the supplement, the EEOC has developed a draft form. According to an EEOC official, the draft was submitted on August 1, 1990, to the EEOC Commissioners for approval. The official was unable to predict when the Commissioners would review the draft. If the Commissioners approve the form, it must then be sent to OMB for approval. According to the official, the form can be given to agencies for their use after OMB's approval is obtained.

We believe Justice should develop its own means of collecting applicant data rather than waiting for the EEOC's form. This is because (1) Justice has an acknowledged need for the data, (2) there is no assurance that EEOC's form will enable Justice to capture all of the data it may need, (3) the length of time it will take to obtain all approvals is unknown, and (4) there is no guarantee that the form will be approved. Other agencies, such as the Internal Revenue Service, have developed their own forms for capturing applicant data. As a means of accelerating development, Justice may wish to review these forms to determine if they can be adapted to its needs.

Late and Incomplete Submissions of Affirmative Employment Plans

The EEOC requires agencies to prepare affirmative employment plans and to submit those plans to it for approval. The plans cover 5-year periods, and the EEOC requires agencies to submit annual updates and accomplishment reports. The first 5-year plan required by the EEOC covered fiscal years 1982 through 1986, and as fiscal year 1987 drew near, the EEOC had agencies update and extend it to fiscal year 1987. The second and current plan covers fiscal years 1988 through 1992.

Justice was late in submitting the first plan. It submitted the plan on July 19, 1983, about 21 months after it was due. Justice was also late in submitting the current plan. The EEOC issued guidance for developing the current plan in October 1987 (Management Directive 714) and January 1988. The current plan was due to EEOC by April 15, 1988. EEOC received Justice's plan on July 29, 1989, or about 15 months late.

According to Justice officials, the current plan was late because (1) Management Directive 714, in comparison to the directive it replaced, put greater emphasis on the identification of internal barriers to full representation and the actions necessary to remove them, and (2) there was inherent difficulty in collecting necessary data from the many offices and bureaus that make up the Justice Department. However,

Appendix I
Objectives, Scope, and Methodology

The most recent applicable CLF data was for 1980. We recognize that, because of the age of the data, the 1980 CLF data may not reflect the various EEO groups' current overall representation in the labor force.

Objectives, Scope, and Methodology

As agreed with the Subcommittee, the objectives of our review were to (1) determine whether Justice has the data necessary to evaluate the success of its efforts to recruit, hire, and promote minorities and women and (2) where evaluation data existed, determine the success of Justice's efforts.

We reviewed relevant EEO statutes, regulations, and guidance issued by Justice and the EEOC. We also obtained and reviewed documents from Justice as well as EEOC reports and program evaluation guides. For example, we reviewed Justice's past and current affirmative employment plans, accomplishment reports, and updates that cover fiscal years 1982 through 1992. We interviewed Justice's EEO officials at the headquarters and bureau level. We also interviewed Federal Sector Programs officials in the EEOC's Office of Program Operations, which is responsible for reviewing and approving agencies' affirmative employment plans.

Because the information in Justice's EEO monitoring reports was not presented in a way we could use, we requested an array of information from the agency's computerized human resource management information system. This system is Justice's source for all work force profile data. Justice officials attributed the more than 2 months' delivery time for the data to such factors as (1) a physical relocation of Justice's data center, (2) having only one analyst available to retrieve the data from the information system, and (3) verifying the data being provided.

The data obtained covered the 6 years from December 1982 to December 1988, and included profiles of Justice's labor force by PATCO category, key job, and pay grade. We did not examine EEO profile data on Justice's blue-collar work force since (1) the blue-collar work force comprised less than 5 percent of Justice's non-FBI work force, (2) Justice's blue-collar work force does not contain any of the key occupations Justice has targeted for priority emphasis in its equal employment opportunity efforts, and (3) the blue-collar pay and grading systems are not comparable to the white-collar pay and grading systems. For ease in presentation, in most cases this report shows data for only the beginning and ending dates—December 1982 and December 1988. Although we did not show them in the report, trend lines over the entire period were usually consistently upward or downward. That is, if a comparison between the 1982 and 1988 dates showed an increase or a decrease, the trend line over the entire 6 years generally showed a constant increase or decrease.

Contents

Abbreviations

CLF	Civilian Labor Force
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FBI	Federal Bureau of Investigation
GM	General Management
GS	General Schedule
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PATCO	professional, administrative, technical, clerical, and other
SES	Senior Executive Service

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Neither had Justice sought or received the required EEOC approval to use American Bar Association data or any other source of attorney-specific data as a basis of comparison. Accordingly, we did not believe it appropriate for Justice to use American Bar Association data.

Conceptually, we agree that comparison of occupation-specific data should provide a more precise measure than comparison to the broader civilian labor force professional data. Given Justice's comment, we obtained attorney-specific CLF data from EEOC and compared that data with Justice's attorney work force data. The comparison showed a more favorable assessment of minority and female representation in Justice's attorney jobs. For example, using the occupation-specific CLF data for attorneys, only 3 of 10 EEO groups were underrepresented as of December 1988 compared to 9 of 10 when using the broader professional CLF data.

Justice officials agreed that the agency's performance work plans for SES personnel lacked specificity in the EEO area. However, they said that the lack of specificity applied throughout the work plans and not just the EEO area. Department officials maintain that the generalities within the work plans flow from the agency's overall policy against goals and numerical objectives. As stated in our report, we believe the use of numerical goals and increased EEO accountability can help improve Justice's EEO profile.

As arranged with the Subcommittee, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Attorney General; the Chairman, EEOC; and other interested parties.

uses, Justice officials agreed that using long-term trend data and analyses on a more comprehensive and systematic basis could enable them to better identify or forecast these and other potential problem areas.

Conclusions

Justice needs to strengthen the management of its EEO program. Affirmative employment plans have been submitted significantly late and performance work plans lack the specificity to hold appropriate SES members truly accountable for EEO matters. Although Justice had data on its efforts to hire and promote minorities and women, it has been slow in accumulating and analyzing information about its recruiting efforts. Justice has made occasional, but not systematic, use of long-term trend data. Justice refused to use numerical goals as a management tool for increasing minority and female representation when use of such goals was required by EEOC and has chosen not to use numerical goals now that their use is optional.

All of this is not to say that Justice has failed to make progress in moving toward full representation. It has. But it still has a long way to go. After years of effort, underrepresentation existed in at least 33 of the 60 key job categories, with a minimum of 18 categories reflecting severe underrepresentation. These key jobs, according to Justice, were the focus of its EEO recruiting, hiring and promotion efforts. This continuing condition clearly indicates a need for Justice to do more to enhance the prospects for improving its EEO program. For Justice to meet these needs, we believe that it should do more in (1) collecting and analyzing recruiting and long-term trend data, (2) holding appropriate SES members more accountable for EEO matters, and (3) employing numerical goals in affirmative employment plans as an aid to increasing representation.

In order to avoid treatment of numerical goals as quotas, numerical goals could be excluded from executives' performance work plans. However, through the performance rating process, executives should be held accountable for carrying out the action items needed to accomplish both numerical and narrative goals. We recognize that the action items could be satisfactorily implemented without achieving the related goal. Failure to reach a goal need not be a negative reflection on the executives' performance; however, it may suggest a need to reexamine the appropriateness of the goal and the related action items.

the SES or at grades 13 through 15. For minority males, the situation was uneven. Of the four male groups, Hispanic and American Indian males were at full representation at grades 13 through 15 but not at the SES level; black and Asian males were fully represented in the SES but not at grades 13 through 15.

Justice Compared to Other Agencies

We compared the minority and female profiles of Justice's professional and administrative work forces with corresponding profiles from the 12 other agencies that had cabinet-level status as of December 1988. We used the professional and administrative categories because out of all PATCO categories, they experienced the most significant growth over the 1982-1988 period in the number of employees governmentwide. To make our comparison, we determined representation levels at each agency in relation to the CLF.

Justice compared more favorably to the other cabinet agencies in the administrative category than it did in the professional category. Justice had 3 underrepresented EEO groups in the administrative category; the 12 other agencies had, on average, 3.3 groups with underrepresentation in the administrative category. Justice had 9 underrepresented EEO groups in the professional category; the other 12 agencies averaged 5.4 groups with underrepresentation.

Justice Should Use Numerical Goals

To enhance its EEO program, we believe Justice should add numerical goals to its affirmative employment plans and hold executives accountable, through the performance rating process, for the actions necessary to accomplish those goals. Justice should use such goals, we believe, to seek full representation across pay grades as well as within jobs and bureaus.

Justice has not used numerical goals in working toward a labor force that is representative of the CLF. The EEOC no longer requires agencies to use numerical goals but gives agencies the option of using them. According to the EEOC, numerical goals reflect management's commitment to overcoming underrepresentation, while providing measurable objectives for managers to aim toward when recruiting, hiring, and promoting staff.

Justice chooses not to use goals because it views them as tantamount to quotas. We do not share that view. Like the EEOC, we believe numerical

Late and Incomplete Submission of Affirmative Employment Plans

Justice has been late in submitting its affirmative employment plans to EEOC for approval. EEOC has required agencies to submit 5-year affirmative employment plans since 1981, and Justice has been late in submitting both of the required plans. It was about 21 months late in submitting the first plan and 15 months late in submitting the second (current) plan. Justice officials said the current plan was late because (1) there was a change in emphasis prescribed by Management Directive 714 and (2) there were inherent difficulties in collecting data from the many offices and bureaus that make up the Justice Department. All but 1 of 12 other cabinet-level agencies submitted their current plans 3 to 16 months earlier than Justice; 1 submitted its plan after Justice.

In addition to being late, both plans were incomplete. The first plan did not (1) contain the data analysis required by EEOC to identify areas of underrepresentation, or (2) the goal setting required by Management Directive 707, the predecessor to Management Directive 714, to address those areas of underrepresentation. The second plan did not contain the EEOC-required comparison data Justice was to have used to analyze the representation of minorities and females within its six key jobs.

Progress Made But Underrepresentation Remains Widespread

Notwithstanding the lack of recruitment data and untimely plan submissions, Justice has made progress in increasing minority and female representation in its work force. We made various analyses using PATCO and key job data to determine where minority and female representation stands at Justice. The PATCO data cover all white-collar positions at Justice and thus provide a broad overview of minority and female representation throughout Justice. While Justice's EEO efforts cover all jobs, those efforts focus on certain jobs. The key jobs data cover those six jobs that Justice's affirmative employment plans say are the focus of the agency's EEO recruiting, hiring, and promotion efforts. In our analysis, we looked at each of the 10 EEO groups within each of the PATCO occupational categories and key jobs. In total, we examined 50 EEO groups or categories using PATCO divisions (10 EEO groups x 5 PATCO occupational categories) and 60 categories using key jobs (10 EEO groups x 6 key jobs).

For many of the PATCO and key job categories, representation grew between 1982 and 1988. This was true for 40 of the 50 PATCO categories and 46 of the 60 key job categories. In some instances, a category was at full representation before the increase. But in most instances, the increase moved the EEO group closer to full representation or achieved it. In fact, the number of categories where underrepresentation existed

in the most recent census. The CLF represents, in general terms, all persons who are employed or seeking employment. Since Justice recruits nationally for its key occupations, we used national CLF data, in accordance with EEOC standards.

At our request, Justice provided profiles of its work force for calendar years 1982 through 1988. The last year for which data were available at the time we collected the data was 1988. We used this information, separated into PATCO and key job categories, to determine if and where underrepresentation existed.

To gauge representation, the EEOC grouped (1) the federal government's 420 white collar jobs into the five PATCO categories and (2) each CLF occupation into the same PATCO category as its federal counterpart, with some exceptions. EEOC uses the PATCO-grouped CLF data as the base against which it compares work force data that agencies align by PATCO category and key job. It also instructs agencies to do the same; that is, use the PATCO-group CLF data as the base of comparison.

However, there can be alternatives to using this base. For example, if the broader professional CLF category yields "a seriously-distorted availability figure for a particular professional occupational series," the EEOC, according to the federal program manager, permits agencies to use, where available, occupation-specific CLF data. CLF data must be used unless approval for other data is obtained from EEOC. "Attorney" is one of the occupations that goes into making up the professional category, and CLF data for attorneys are available. It is the only such key job at Justice. Thus, in analyzing the EEO profile of the attorney work force at Justice, we used as our base of comparison both the occupation-specific data and the broader professional data. For reporting purposes, we show both sets of data.

In analyzing work force data for underrepresentation, we used a term and definition that EEOC had formerly used: "severe underrepresentation," which exists when representation is 50 percent or less of the CLF. The EEOC applied this definition for several years through December 1987. During this period, the EEOC directed agencies to double their hiring goals for EEO groups suffering severe underrepresentation.

The EEOC, however, has not applied this term and definition since January 1988. Since then, the EEOC, through Management Directive 714, has

across Justice at pay levels above the grade 12 level and (2) within five of Justice's six key jobs, especially border patrol agent and criminal investigator.

We reviewed, for example, the December 1988 work force profile of 10 minority and female groups in each key job, and the underrepresentation level was severe—50 percent or less of the CLF—for nearly one-third of the 60 categories (10 groups × 6 jobs). However, our use of occupation-specific data for attorneys significantly enhanced Justice's representation profile over that derived from using the broader CLF data.

In addition to collecting and analyzing recruiting data, Justice could enhance its prospects for improving its affirmative action program by (1) systematically analyzing data for periods of several years to establish trend lines, (2) adding to its affirmative employment plan numerical goals for increasing minority and female representation, and (3) holding executives more accountable for carrying out actions needed to reach its goals.

Justice continues to view numerical goals as quotas and does not use them for that reason. The EEOC gives agencies the option of using numerical goals. It views numerical goals as a flexible tool that management can use for increasing representation and, unlike quotas, not requiring preferential treatment of minorities and females without regard to qualifications. We share the EEOC's views.

Background

The Justice Department, with over 50,000 non-FBI employees, is the nation's principal law enforcement agency. Through various bureaus, offices, boards, and divisions, it undertakes such federal law enforcement activities as investigating and litigating civil and criminal cases, combating illegal drug trafficking, policing the nation's borders, and housing convicted criminals.

The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires federal agencies to develop and implement affirmative action programs to eliminate the historic underrepresentation of minorities and women in the work force. The EEOC is responsible for providing agencies with guidance on their affirmative action programs. EEOC's Management Directive 714, issued in October 1987, assigns agency heads responsibility for ensuring compliance with

